HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.377 OF 2006

Between:

The Works Manager,
Zonal Works Shop,
APSRTC, Kadapa ……
Appellant.

And

The Industrial Tribunal cum Labour Court,
Ananthapur & another
……
Respondents.

:: J U D G M E N T ::

Counsel for the appellant : Shri S.D. Goud for
Shri P. Vinayaka Swamy

Counsel for the respondents : Shri P. Sreedhara Rao for
Shri A.K. Jayaprakash Rao

28th December, 2006

Per G.S. SINGHVI, C.J.

This appeal is directed against order dated 14.03.2005 passed by the learned Single Judge in W.P.M.P.No.6567 of 2005 in

Writ Petition No.4939 of 2005.

A perusal of the record shows that the dispute raised by respondent No.2 – M. Harinatha in the matter of regularisation of his service as Assistant Cook in APSRTC Zonal Workshop, Kadapa was referred by the Government of Andhra Pradesh to Industrial Tribunal-cum-Labour Court, Anantapur (for short, 'the Tribunal') under Section 10 (1)(c) of the Industrial Disputes Act, 1947. Respondent No.2 claimed that even though he was engaged in the canteen run by the contractor of the Corporation, he was, in fact, an employee of the Corporation and was entitled to be regularised in the establishment of the Corporation.

By an award dated 11.08.2004, the Tribunal accepted the claim set up by respondent No.2 and issued the following direction:

> "Respondent is directed to consider the claim of the workman for regularisation as per the rules prevailing in APSRTC and till such time, the workman shall be treated as casual labour of the respondent. For the purpose of counting the service, the workman shall be deemed to be in service from 1995."

Feeling aggrieved by the award of the Tribunal, which, prima facie, appears to be innocuous, Works Manager, Zonal Work Shop, APSRTC, Kadapa filed Writ Petition No.4939 of 2005 along with W.P.M.P.No.6567 of 2005. While admitting the writ petition and issuing notice to the non-petitioners, the learned Single Judge passed interim order dated 14.03.2005, which reads as under:

> "Interim suspension subject to compliance of Sec. 17(B) of the Industrial Disputes Act, 1947.
>
> The learned counsel for the petitioner is permitted to take out personal notice to the unofficial respondent through RPAD and file proof of service within four weeks, failing which, the interim suspension, shall stand vacated without any further reference to the Court."

The appellant challenged the above re-produced interlocutory

order by contending that the learned Single Judge could not have invoked the provisions of Section 17(B) of the Industrial Disputes Act, 1947 so as to cast a burden on him to pay last drawn wages to respondent No.2 during the pendency of the writ petition.

At the hearing, learned counsel for respondent No.2 produced before us copy of order dated 29.04.2005 passed in W.V.M.P.No.1044 of 2005 in W.P.M.P.No.6567 of 2005, whereby the learned Single Judge vacated interim order dated 14.03.2005.

In view of the above development, the appeal is liable to be disposed of as infructuous.

Even otherwise, we are convinced that there was no justification for the learned Single Judge to have passed interim order suspending the operation of award dated 11.08.2004, which, as mentioned above, is innocuous. The admission of the writ petition by the learned Single Judge could, at best, be treated as evidence of prima facie case being in favour of the appellant. However, the other two elements, namely, balance of convenience and irreparable injury were clearly against the grant of interim order. In our considered view, an award passed by the Tribunal or Labour Court, which enables the workman to get some monetary benefits cannot be placed at a pedestal lower than the money decree passed by the Civil Court and if the Courts are too chary to stay execution of money decrees, it is difficult to fathom any reason why an award passed in favour of the workman, who belongs to the lowest strata of the society, should be stayed merely for asking.

With the above observations, the appeal is disposed of as infructuous.

As a sequel to disposal of the appeal as infructuous, W.A.M.P.Nos. 795 and 1467 of 2006 filed by the appellant for interim relief are dismissed.

G.S.SINGHVI, C.J.

C.V.NAGARJUNA REDDY, J.

28th December, 2006
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